

# New Hampshire Department of Revenue Administration

## Fiscal Note Quick Guide

12-2135.0

**HB 1418-FN-A**, *increasing the threshold amounts for taxation under the BET.*

House Ways & Means Committee

This bill amends the Business Enterprise Tax (BET) filing thresholds to \$200,000 gross business receipts or an Enterprise Tax Value Base (BETVB) of greater than \$100,000. The Department of Revenue Administration analyzed Fiscal Year 2010 data<sup>1</sup>, which consisted of the 40,666 returns filed by entities that had any BETVB on returns filed during this period. Of those 40,666 returns, 18,217 returns had a BETVB of less than \$100,000.01.<sup>2</sup>

The maximum loss of BET payments would be \$6,223,899.53 under this bill as of 9/29/2011. This number was rounded to \$6,224,000. The maximum revenue loss was based upon the 18,217 returns that would not pay any BET due to the new \$100,000 BETVB threshold. This possible loss was called “the maximum possible loss” due to the fact that some taxpayers who had less than \$100,00.01 in BETVB may have had greater than \$200,000 in gross business receipts and, thus, would still pay the same tax. An estimate of the effect of increasing the filing threshold to \$200,000 gross business receipts, however, could not be made as information on “gross business receipts” is not requested on the returns taxpayers have submitted in the past.

Because taxpayer filings would not necessarily remain the same in the future, the Department was unable to project beyond Fiscal Year 2013. A maximum loss of \$6,224,000 in General Fund and Education Trust Fund revenue could be estimated for Fiscal Year 2013 if the facts and circumstances of taxpayers situations remain the same in their filings in Fiscal Year 2013 as they were in their filings in Fiscal Year 2010.

The Department foresees that the impact of this revenue loss would be felt immediately by the reduction of required BET estimate payments. In addition, with all of the presumed available BET credit carryforward outstanding, it is unlikely that BET offsets against the Business Profits Tax would be reduced to a degree that it could minimize the loss of BET revenue at all.

The last section of the bill would change the requirement for an estimated payment from a total BET liability of \$200 or more to \$260 or more. This should not have much of a fiscal impact as any business with less than \$200,000 gross business receipts or a \$100,000 BETVB would be subject to the tax. A business having a BETVB of \$100,000 would have a \$750 tax liability. While the loss of estimate payments may be minimal, the deferral of tax payments due to this increased threshold cannot be quantified.

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<sup>1</sup> Returns filed in Fiscal Year 2010 were analyzed as not all returns received in Fiscal Year 2011 have been data entered so that the data on them is not yet fully available.

<sup>2</sup> Any taxpayer who had a BETVB of more than zero and less than \$100,000.01 was chosen and their BET revenue calculated.

The Department noted that the BET was implemented in 1993 to make New Hampshire business taxes more equitable. The BET broadened the tax base so that more businesses would actually pay a business tax. This amendment to RSA Chapter 77-E would have the opposite effect. This could once again expose the state to litigation concerning the equity of New Hampshire's business taxes.

This law would take effect July 1, 2012. The Department, however, suggested that the effective date be changed to the standard tax language of "This act shall be in effect for taxable periods ending on or after December 31, 2012."

This law could be administered by the Department of Revenue Administration without any additional cost.